

362, 364, 368, 371, and 376 of this title and enacting provisions set out as a note above] may be cited as the ‘Act to authorize the United States to participate in chapter II of the Patent Cooperation Treaty’.”

## CHAPTER 36—INTERNATIONAL STAGE

Sec.	
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### AMENDMENTS

1986—Pub. L. 99-616, § 3, Nov. 6, 1986, 100 Stat. 3485, amended item 362 generally.

### § 361. Receiving Office

(a) The Patent and Trademark Office shall act as a Receiving Office for international applications filed by nationals or residents of the United States. In accordance with any agreement made between the United States and another country, the Patent and Trademark Office may also act as a Receiving Office for international applications filed by residents or nationals of such country who are entitled to file international applications.

(b) The Patent and Trademark Office shall perform all acts connected with the discharge of duties required of a Receiving Office, including the collection of international fees and their transmittal to the International Bureau.

(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.

(d) The international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall either be paid on filing of an international application or within such later time as may be fixed by the Director.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 686; amended Pub. L. 98-622, title IV, §§ 401(a), 403(a), Nov. 8, 1984, 98 Stat. 3391, 3392; Pub. L. 99-616, § 2(d), Nov. 6, 1986, 100 Stat. 3485; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-211, title II, § 202(b)(7), Dec. 18, 2012, 126 Stat. 1536.)

### AMENDMENTS

2012—Subsec. (c). Pub. L. 112-211 added subsec. (c) and struck out former subsec. (c) which read as follows: “International applications filed in the Patent and Trademark Office shall be in the English language.”

2002—Subsec. (d). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (d). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1986—Subsec. (d). Pub. L. 99-616 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as fol-

lows: “The basic fee portion of the international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall be paid on filing of an international application or within one month after the date of such filing. Payment of designation fees may be made on filing and shall be made not later than one year from the priority date of the international application.”

1984—Subsecs. (a) to (c). Pub. L. 98-622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office”.

Subsec. (d). Pub. L. 98-622, § 401(a), inserted “or within one month after the date of such filing” after “application”.

### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-211 effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that effective date and patent applications pending on or filed after that effective date, and not effective with respect to patents in litigation commenced before that effective date, see section 203 of Pub. L. 112-211, set out as an Effective Date note under section 27 of this title.

### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 401(a) of Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

### EFFECTIVE DATE

Chapter effective Jan. 24, 1978, and applicable to international and national applications filed on and after that date, see section 11 of Pub. L. 94-131, set out as a note under section 351 of this title.

## § 362. International Searching Authority and International Preliminary Examining Authority

(a) The Patent and Trademark Office may act as an International Searching Authority and International Preliminary Examining Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau, and may discharge all duties required of such Authorities, including the collection of handling fees and their transmittal to the International Bureau.

(b) The handling fee, preliminary examination fee, and any additional fees due for international preliminary examination shall be paid within such time as may be fixed by the Director.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 686; amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, § 4, Nov. 6, 1986, 100 Stat. 3485; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29,

1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

#### AMENDMENTS

2002—Subsec. (b). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (b). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1986—Pub. L. 99-616 inserted “and International Preliminary Examining Authority” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Patent and Trademark Office may act as an International Searching Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau.”

1984—Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

### § 363. International application designating the United States: Effect

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 686; amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 112-29, §§ 3(g)(3), 20(j), Sept. 16, 2011, 125 Stat. 288, 335.)

#### AMENDMENTS

2011—Pub. L. 112-29, § 20(j), struck out “of this title” after “102(e)”.

Pub. L. 112-29, § 3(g)(3), which directed the striking out of “except as otherwise provided in section 102(e) of this title”, was executed by striking out “except as otherwise provided in section 102(e)” before period at end, to reflect the probable intent of Congress, because the words “of this title” did not appear subsequent to amendment by Pub. L. 112-29, § 20(j). See note above and Effective Date of 2011 Amendment notes below.

1984—Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 3(g)(3) of Pub. L. 112-29 effective upon the expiration of the 18-month period beginning on Sept. 16, 2011, and applicable to certain applications for patent and any patents issuing thereon, see section 3(n) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment; Savings Provisions note under section 100 of this title.

Amendment by section 20(j) of Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

### § 364. International stage: Procedure

(a) International applications shall be processed by the Patent and Trademark Office when acting as a Receiving Office, International Searching Authority, or International Preliminary Examining Authority, in accordance with the applicable provisions of the treaty, the Regulations, and this title.

(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 686; amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, § 5, Nov. 6, 1986, 100 Stat. 3485; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-211, title II, § 202(b)(8), Dec. 18, 2012, 126 Stat. 1536.)

#### AMENDMENTS

2012—Subsec. (b). Pub. L. 112-211 added subsec. (b) and struck out former subsec. (b) which read as follows: “An applicant's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Director of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are complied with.”

2002—Subsec. (b). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (b). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1986—Subsec. (a). Pub. L. 99-616 substituted a comma for “or” before “International Searching Authority” and “International Preliminary Examining Authority” for “both”.

1984—Subsec. (a). Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-211 effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that effective date and patent applications pending on or filed after that effective date, and not effective with respect to patents in litigation commenced before that effective date, see section 203 of Pub. L. 112-211, set out as an Effective Date note under section 27 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

**§ 365. Right of priority; benefit of the filing date of a prior application**

(a) In accordance with the conditions and requirements of subsections (a) through (d) of section 119, a national application shall be entitled to the right of priority based on a prior filed international application which designated at least one country other than the United States.

(b) In accordance with the conditions and requirement of section 119(a) and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States. The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.

(c) In accordance with the conditions and requirements of section 120, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

(Added Pub. L. 94-131, §1, Nov. 14, 1975, 89 Stat. 686; amended Pub. L. 98-622, title IV, §403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 103-465, title V, §532(c)(4), Dec. 8, 1994, 108 Stat. 4987; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-29, §20(j), Sept. 16, 2011, 125 Stat. 335; Pub. L. 112-211, title I, §102(8), title II, §201(c)(2), Dec. 18, 2012, 126 Stat. 1532, 1535.)

**AMENDMENT OF SUBSECTION (c)**

*Pub. L. 112-211, title I, §§102(8), 103, Dec. 18, 2012, 126 Stat. 1532, provided that, effective on the later of the date that is 1 year after Dec. 18, 2012, or the date that the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs enters into force with respect to the United States, and applicable only to certain applications filed on and after that effective date and patents issuing thereon, subsection (c) of this section is amended, in the first sentence, by substituting “; a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) des-*

*ignating the United States” for “or a prior international application designating the United States” and, in the second sentence, by inserting “or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States” after “did not originate in the United States”. See 2012 Amendment note below.*

**AMENDMENTS**

2012—Subsec. (b). Pub. L. 112-211, §201(c)(2), inserted at end “The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.”

Subsec. (c). Pub. L. 112-211, §102(8), substituted “; a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States” for “or a prior international application designating the United States” and inserted “or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States” after “did not originate in the United States”.

2011—Subsec. (a). Pub. L. 112-29 struck out “of this title” after “119”.

Subsec. (b). Pub. L. 112-29 struck out “of this title” after “119(a)”.

Subsec. (c). Pub. L. 112-29 struck out “of this title” after “120”.

2002—Subsec. (c). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (c). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1994—Subsec. (a). Pub. L. 103-465, §532(c)(4)(A), substituted “subsections (a) through (d) of section 119” for “section 119”.

Subsec. (b). Pub. L. 103-465, §532(c)(4)(B), substituted “section 119(a)” for “the first paragraph of section 119”.

1984—Subsec. (c). Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

**EFFECTIVE DATE OF 2012 AMENDMENT**

Amendment by section 102(8) of Pub. L. 112-211 effective on the later of the date that is 1 year after Dec. 18, 2012, or the date that the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs enters into force with respect to the United States, and applicable only to certain applications filed on and after that effective date and patents issuing thereon, see section 103 of Pub. L. 112-211, set out as a note under section 100 of this title.

Amendment by section 201(c)(2) of Pub. L. 112-211 effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that effective date and patent applications pending on or filed after that effective date, and not effective with respect to patents in litigation commenced before that effective date, see section 203 of Pub. L. 112-211, set out as an Effective Date note under section 27 of this title.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(7) of Pub. L. 112-29, set out as a note under section 2 of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT**

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731]

of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective 6 months after Dec. 8, 1994, and applicable to all patent applications filed in the United States on or after that effective date, with provisions relating to earliest filed patent application, see section 534(b)(1), (3) of Pub. L. 103-465, set out as a note under section 154 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

### § 366. Withdrawn international application

Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of withdrawal, and shall be considered as not having been made, unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal. However, such withdrawn international application may serve as the basis for a claim of priority under section 365(a) and (b) of this part, if it designated a country other than the United States.

(Added Pub. L. 94-131, §1, Nov. 14, 1975, 89 Stat. 687; amended Pub. L. 98-622, title IV, §401(b), Nov. 8, 1984, 98 Stat. 3391; Pub. L. 112-211, title I, §102(9), Dec. 18, 2012, 126 Stat. 1532.)

#### AMENDMENT OF SECTION

*Pub. L. 112-211, title I, §§102(9), 103, Dec. 18, 2012, 126 Stat. 1532, provided that, effective on the later of the date that is 1 year after Dec. 18, 2012, or the date that the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs enters into force with respect to the United States, and applicable only to certain applications filed on and after that effective date and patents issuing thereon, this section is amended, in the first sentence, by striking “unless a claim” and all that follows through “withdrawal.” and inserting “unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.” and by striking the second sentence and inserting “However, such withdrawn international application may serve as the basis for a claim of priority under section 365(a) and (b), or under section 386(a) or (b), if it designated a country other than the United States.” See 2012 Amendment note below.*

#### AMENDMENTS

2012—Pub. L. 112-211 substituted “unless a claim for benefit of a prior filing date under section 365(c) of this

section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.” for “unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal.” and “However, such withdrawn international application may serve as the basis for a claim of priority under section 365(a) and (b), or under section 386(a) or (b), if it designated a country other than the United States.” for “However, such withdrawn international application may serve as the basis for a claim of priority under section 365(a) and (b) of this part, if it designated a country other than the United States.”

1984—Pub. L. 98-622 inserted “after the date of withdrawal,” after “effect” and “, unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal” after “having been made” in first sentence, and inserted “withdrawn” after “such” in second sentence.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-211 effective on the later of the date that is 1 year after Dec. 18, 2012, or the date that the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs enters into force with respect to the United States, and applicable only to certain applications filed on and after that effective date and patents issuing thereon, see section 103 of Pub. L. 112-211, set out as a note under section 100 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

### § 367. Actions of other authorities: Review

(a) Where a Receiving Office other than the Patent and Trademark Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Director, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12(3) of the treaty.

(Added Pub. L. 94-131, §1, Nov. 14, 1975, 89 Stat. 687; amended Pub. L. 98-622, title IV, §403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (a). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.  
 1984—Subsec. (a). Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

### § 368. Secrecy of certain inventions; filing international applications in foreign countries

(a) International applications filed in the Patent and Trademark Office shall be subject to the provisions of chapter 17.

(b) In accordance with article 27(8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17, whether or not the United States is designated in that international application.

(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent and Trademark Office when acting as a Receiving Office, International Searching Authority, or International Preliminary Examining Authority, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

(Added Pub. L. 94-131, §1, Nov. 14, 1975, 89 Stat. 687; amended Pub. L. 98-622, title IV, §403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, §6, Nov. 6, 1986, 100 Stat. 3486; Pub. L. 112-29, §20(j), Sept. 16, 2011, 125 Stat. 335.)

#### AMENDMENTS

2011—Subsecs. (a), (b). Pub. L. 112-29 struck out “of this title” after “17”.

1986—Subsec. (c). Pub. L. 99-616 substituted a comma for “or” after “Receiving Office” and “International Preliminary Examining Authority” for “both”.

1984—Subsecs. (a), (c). Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

## CHAPTER 37—NATIONAL STAGE

Sec.  
 371. National stage: Commencement.

Sec.  
 372. National stage: Requirements and procedure.  
 [373. Repealed.]  
 374. Publication of international application.  
 375. Patent issued on international application: Effect.  
 376. Fees.

#### AMENDMENTS

2013—Pub. L. 112-274, §1(i), Jan. 14, 2013, 126 Stat. 2457, struck out item 373 “Improper applicant”.

1999—Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4507(12)], as added by Pub. L. 107-273, div. C, title III, §13205(2)(F), Nov. 2, 2002, 116 Stat. 1903, substituted “Publication of international application” for “Publication of international application: Effect” in item 374.

### § 371. National stage: Commencement

(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports including any annexes thereto may be required in the case of international applications designating or electing the United States.

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty.

(c) The applicant shall file in the Patent and Trademark Office—

(1) the national fee provided in section 41(a);

(2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;

(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

(4) an oath or declaration of the inventor (or other person authorized under chapter 11) complying with the requirements of section 115 and with regulations prescribed for oaths or declarations of applicants;

(5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.

(d) The requirements with respect to the national fee referred to in subsection (c)(1), the translation referred to in subsection (c)(2), and the oath or declaration referred to in subsection (c)(4) of this section shall be complied with by the date of the commencement of the national stage or by such later time as may be fixed by the Director. The copy of the international application referred to in subsection (c)(2) shall be submitted by the date of the commencement of the national stage. Failure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof. The payment of a surcharge may be required as a condition of accepting the national fee referred to in subsection (c)(1) or the oath or declaration referred to in subsection (c)(4) of this section if